



DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Part 226

[Docket No. BIA-2022-0006; 234A2100DD/AAKC001030/A0A501010.999900; OMB

Control Number 1076-0180, 1012-0004, 1012-0006]

RIN 1076-AF59

Mining of the Osage Mineral Estate for Oil and Gas

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Proposed rule; reopening of public comment period.

SUMMARY: The Bureau of Indian Affairs (BIA) is reopening the public comment period for the proposed rule revising the regulations governing leasing of the Osage Nation's mineral estate ("Osage Mineral Estate") for oil and gas mining. The BIA is also requesting information regarding the transportation costs for oil produced from the Osage Mineral Estate.

DATES: The comment period for the proposed rule published on January 13, 2023 (88 FR 2430), is reopened. Comments must be received by 11:59 p.m. EST on August 18, 2023.

ADDRESSES: You may submit your comments on the proposed rule by any of the methods listed below.

- *Federal Rulemaking Portal:* Please visit <https://www.regulations.gov/docket/BIA-2022-0006> or <https://www.regulations.gov> and enter "RIN 1076-AF59" in the search box and click "Search." Follow the instructions for sending comments.
- *Mail:* U.S. Department of the Interior, Eastern Oklahoma Region, Bureau of Indian Affairs, Attn: Regional Director, P.O. Box 8002, Muskogee, OK 74402. All submissions must include the words "Bureau of Indian Affairs" or "BIA" and "RIN 1076-AF59."

- *Hand Delivery/Courier*: U.S. Department of the Interior, Eastern Oklahoma Region, Bureau of Indian Affairs, Attn: Regional Director, 3100 W. Peak Boulevard, Muskogee, OK 74402.

FOR FURTHER INFORMATION CONTACT: Oliver Whaley, Director, Office of Regulatory Affairs and Collaborative Action, Office of the Assistant Secretary – Indian Affairs, (202) 738-6065, *comments@bia.gov*.

SUPPLEMENTARY INFORMATION: On January 13, 2023, the BIA published a proposed rule in the *Federal Register* (88 FR 2430) revised 25 CFR part 226, Leasing of Osage Reservation Lands for Oil and Gas Mining, to strengthen the BIA’s management and administration of the Osage Mineral Estate. The proposed rule would allow the BIA to strengthen management of the Osage Mineral Estate by updating bonding, royalty payment and reporting, production valuation and measurement, site security, and operational requirements to address changes in technology and industry standards that have occurred in the 47 years since the regulations were issued.

The proposed rule would also allow the BIA to respond to recommendations made by the Office of Inspector General, U.S. Department of the Interior (OIG). The public comment period for the proposed rule closed on Friday, April 7, 2023. To give the public additional time to review the proposed revisions and provide comments, the BIA is reopening the public comment period until Friday, August 18, 2023. Comments previously submitted on the proposed rule will be fully considered in preparing the final rule and do not need to be resubmitted.

The BIA also invites comments from anyone who would like to submit information regarding transportation costs for oil produced from the Osage Mineral Estate. The proposed rule states that the value of oil for royalty purposes will be the greater of the NYMEX Calendar Month Average Price of oil at Cushing, Oklahoma, or the actual selling price for the transaction, adjusted for gravity (*see* the proposed 25 CFR 226.37 replacing the current 25 CFR 226.11(a)(2)). In response to the BIA’s first request for public comments on the proposed rule,

some commenters states that the NYMEX Calendar Month Average Price exceeds what a lessee may receive from a refinery purchasing oil from the Osage Mineral Estate. Those commenters advocated for the value of oil for royalty purposes to be less than the NYMEX Calendar Month Average Price.

The BIA is interested in information regarding the cost of transporting oil from a lease within the Osage Mineral Estate to: (1) a refinery located in Osage County, Oklahoma; and (2) a refinery located in Cushing, Oklahoma. The BIA may consider the incremental cost of transporting oil from the Osage Mineral Estate to Cushing, Oklahoma in determining the method for valuing oil from the Osage Mineral Estate for royalty purposes under any final rule.

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Assistant Secretary – Indian Affairs.

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